

AMENDED IN ASSEMBLY SEPTEMBER 3, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1029**

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**Introduced by Assembly Member Blumenfield**

February 27, 2009

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~~An act to add and repeal Sections 17053.91 and 23649.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to add Section 2923.57 to the Civil Code, relating to mortgages.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1029, as amended, Blumenfield. ~~Manufacturers' investment credit: qualified solar energy materials. Mortgages: foreclosure: tax deferral program participants.~~

*Existing law, until January 1, 2013, and as applied to residential mortgage loans for owner-occupied residences made from January 1, 2003, to December 31, 2007, inclusive, requires a mortgagee, trustee, beneficiary, or authorized agent to wait 30 days after contact is made with the borrower, or 30 days after satisfying due diligence requirements to contact the borrower, as specified, before filing a notice of default, in order to assess the borrower's financial situation and to explore options to avoid foreclosure.*

*This bill would prohibit a mortgagee, trustee, or other person authorized to take sale from filing a notice of default based on the failure to pay property taxes prior to 90 days after contacting the trustor or mortgagor, either in person or by telephone, to ascertain if the trustor or mortgagor was a participant in the property tax deferral program established pursuant to the Senior Citizens and Disabled Citizens Property Tax Postponement Law. The bill would provide that if the*

*trustor or mortgagor was participating in the property tax deferral program on or before February 19, 2009, and the trustor or mortgagor, within a specified period, provides a copy of the certificate of eligibility issued by the Controller to this effect, the mortgagee, trustee, or other person authorized to take sale is prohibited from filing a notice of default based on the failure to pay property taxes for 5 years from the date of first contacting the mortgagor or trustor.*

~~The Personal Income Tax Law and the Bank and Corporation Tax Law authorizes various credits against the taxes imposed by that law.~~

~~This bill would allow a credit for taxable years beginning on or after January 1, 2009, and before January 1, 2011, in an amount equal to an unspecified percent of the amount paid or incurred during the taxable year by a qualified taxpayer in connection with the manufacture of qualified solar energy materials.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) Since 1977, the Senior Citizens and Disabled Citizens*
- 4     *Property Tax Postponement Law has helped eligible elderly and*
- 5     *disabled residents on fixed incomes remain in their homes by*
- 6     *deferring payment of property taxes until the house is sold or*
- 7     *ownership otherwise transferred.*
- 8     *(b) Suspension of the Senior Citizens and Disabled Citizens*
- 9     *Property Tax Postponement Law in February 2009 has exposed*
- 10    *participants to possible default on property taxes in December*
- 11    *2009 and thereafter, and has heightened fears of home*
- 12    *foreclosures.*
- 13    *(c) While counties may not force the sale of a home to collect*
- 14    *on delinquent property taxes for five years, no similar delay applies*
- 15    *to lenders that would protect the elderly and disabled who would*
- 16    *have participated in the property tax deferral program established*
- 17    *pursuant to the Senior Citizens and Disabled Citizens Property*
- 18    *Tax Postponement Law had it not been suspended.*
- 19    *SEC. 2. Section 2923.57 is added to the Civil Code, to read:*

2923.57. (a) *This section shall apply only to a default on a mortgage or deed of trust for the failure to pay property taxes.*

(b) *A mortgagee, trustee, or other person authorized to take sale shall not file a notice of default based on the failure to pay property taxes prior to 90 days after contacting the trustor or mortgagor, either in person or by telephone, to ascertain if the trustor or mortgagor was a participant in the property tax deferral program established pursuant to the Senior Citizens and Disabled Citizens Property Tax Postponement Law, Chapter 2 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code.*

(c) *If, within the 90-day period described in subdivision (a), the mortgagee, trustee, or other person authorized to take sale is informed that the trustor or mortgagor was participating in the property tax deferral program on or before February 19, 2009, and the trustor or mortgagor provides a copy of the certificate of eligibility issued by the Controller that evidences this, the mortgagee, trustee, or other person authorized to take sale shall not file a notice of default based on the failure to pay property taxes for five years from the date of first contacting the mortgagor or trustor.*

~~SECTION 1. Section 17053.91 is added to the Revenue and Taxation Code, to read:~~

~~17053.91. (a) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year an amount equal to \_\_\_\_ percent of the amount paid or incurred during the taxable year by a taxpayer in connection with the manufacture of qualified solar energy materials.~~

~~(b) For purposes of this section:~~

~~(1) "Manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction, farming, power generation, or processing natural resources.~~

~~(2) "Qualified solar energy materials" means materials used in solar energy systems that meet standards established by the California Energy Commission and are approved for use in the California Solar Initiative.~~

~~(c) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of~~

1 the credit that exceeds the “net tax” may be carried over to reduce  
2 the net tax in the following taxable year, and the succeeding four  
3 taxable years if necessary, until the credit is exhausted.

4 ~~(d) The Franchise Tax Board may prescribe rules and regulations~~  
5 ~~to carry out the purposes of this section, including any rules and~~  
6 ~~regulations necessary to prevent the avoidance of the effect of this~~  
7 ~~section through splitups, shell corporations, partnerships, tiered~~  
8 ~~ownership structures, sale-leaseback transactions, or otherwise.~~

9 ~~(e) This section shall remain in effect only until December 1,~~  
10 ~~2011, and as of that date is repealed.~~

11 SEC. 2. Section 23649.1 is added to the Revenue and Taxation  
12 Code, to read:

13 23649.1. (a) For taxable years beginning on or after January  
14 1, 2009, and before January 1, 2011, there shall be allowed as a  
15 credit against the “tax” as defined in Section 23036 for the taxable  
16 year an amount equal to \_\_\_\_ percent of the amount paid or incurred  
17 during the taxable year by a taxpayer in connection with the  
18 manufacture of qualified solar energy materials.

19 (b) For purposes of this section:

20 (1) “Manufacturing” means combining or processing  
21 components or materials to increase their value for sale in the  
22 ordinary course of business, but does not include construction,  
23 farming, power generation, or processing natural resources.

24 (2) “Qualified solar energy materials” means materials used in  
25 solar energy systems that meet standards established by the  
26 California Energy Commission and are approved for use in the  
27 California Solar Initiative.

28 ~~(e) In the case where the credit otherwise allowed under this~~  
29 ~~section exceeds the “net tax” for the taxable year, that portion of~~  
30 ~~the credit that exceeds the “net tax” may be carried over to reduce~~  
31 ~~the net tax in the following taxable year, and the succeeding four~~  
32 ~~taxable years if necessary, until the credit is exhausted.~~

33 ~~(d) The Franchise Tax Board may prescribe rules and regulations~~  
34 ~~to carry out the purposes of this section, including any rules and~~  
35 ~~regulations necessary to prevent the avoidance of the effect of this~~  
36 ~~section through splitups, shell corporations, partnerships, tiered~~  
37 ~~ownership structures, sale-leaseback transactions, or otherwise.~~

38 ~~(e) This section shall remain in effect only until December 1,~~  
39 ~~2011, and as of that date is repealed.~~

1     ~~SEC. 3.—This act provides for a tax levy within the meaning of~~  
2     ~~Article IV of the Constitution and shall go into immediate effect.~~

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